



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 24, 1998

Mr. Saul Pedregon
Assistant City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR98-2299

Dear Mr. Pedregon:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 118544.

The Dallas Police Department (the "department") received a request for information. The request referenced an incident that occurred November 21, 1963 and asked for "all reports regarding Mr. John Thomas Masen."¹ You contend that this constitutes a request for the compiled criminal history of the named individual and that this information is excepted from disclosure pursuant to section 552.101 of the Government Code. You have submitted the responsive documents. We have considered the exception you urge and the submitted information.

Initially, we note that section 552.101 excepts from required public disclosure information that is confidential by law, and encompasses information protected under common-law privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). To the extent that a requestor asks for all records in which the named individual is identified as a "suspect," such a requestor, in essence, is asking for a compilation of the individual's criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of*

¹The department correctly notes that although it's request for information was made after the statutory ten-day period, our offices may properly consider the third-party privacy and confidentiality issues raised in its request.

Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department, therefore, must withhold all compilations of the referenced individual's criminal history pursuant to section 552.101.

However, in the instant case, rather than a general compilation of this individual's criminal history, the request seeks those reports that relate to a specific incident. We note that the requester states that she wants to match the department's records with a report of the incident that is in her possession. The documents submitted likewise appear only to relate to the incident and do not include compiled arrest data. We conclude that response to the request does not require a compilation of the subject's criminal history and that the submitted documents do not constitute such a compilation. As neither the request nor the information, on their face, raise any other confidentiality issues, the submitted information cannot be withheld pursuant to section 552.101 of the Government Code and it must be released.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 118544

Enclosures: Submitted documents

cc: Ms. Mary LaFontaine
5618 McCommas Boulevard
Dallas, Texas 75206
(w/o enclosures)